



7020-02

INTERNATIONAL TRADE COMMISSION

Investigation No. 337-TA-929 (Enforcement Proceeding)

Certain Beverage Brewing Capsules, Components Thereof, and Products Containing the Same

Notice of Institution of Formal Enforcement Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has instituted a formal enforcement proceeding relating to March 17, 2016 limited exclusion order and cease and desist order issued in the above-referenced investigation.

FOR FURTHER INFORMATION CONTACT: Robert J. Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-3438. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted the original investigation on September 9, 2014, based on a complaint filed by Adrian Rivera and Adrian Rivera Maynez Enterprises, Inc. (collectively, "ARM"). 79 *Fed. Reg.* 53445-46 (Mar. 24, 2016). The complaint

alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain beverage brewing capsules, components thereof, and products containing the same, by reason of infringement of claims 5-8 and 18-20 of U.S. Patent No. 8,720,320 (“the ’320 patent”). *Id.* The notice of institution of the investigation named as respondents Solofill, LLC (“Solofill”); DongGuan Hai Rui Precision Mould Co., Ltd. (“DongGuan”); Eko Brands, LLC (“Eko Brands”); Evermuch Technology Co., Ltd. and Ever Much Company Ltd. (together, “Evermuch”); and several additional respondents who were terminated by reason of consent order or settlement. 79 *Fed. Reg.* 53445. The Office of Unfair Import Investigations (“OUII”) was also named as a party to the investigation. *Id.* The Commission found Eko Brands and Evermuch in default for failure to respond to the complaint and notice of investigation. Notice (May 18, 2015).

On March 17, 2016, the Commission found no violation of section 337 by Solofill and DongGuan because claims 5-7, 18, and 20 were invalid for a lack of written description and claims 5 and 6 were invalid as anticipated. 81 *Fed. Reg.* 15742-43. The Commission, however, presumed that the allegations were true with respect to the remaining allegations against the defaulted parties Eko Brands and Evermuch, and thus concluded that they violated section 337 with respect to claims 8 and 19. *Id.* at 15743. The Commission issued a limited exclusion order prohibiting Eko Brands and Evermuch from importing certain beverage brewing capsules, components thereof, and products containing the same that infringed claims 8 or 19 of the ’320 patent. *Id.* The Commission also issued cease and desist orders against Eko Brands and Evermuch prohibiting the sale and distribution within the United States of articles that infringe claims 8 or 19. *Id.*

On June 1, 2016, ARM filed a complaint requesting that the Commission institute a formal enforcement proceeding under Commission Rule 210.75(b) to investigate alleged violations of the limited exclusion order and the cease and desist order against Eko Brands by both Eko Brands and Espresso Supply, Inc. (collectively, “Respondents”). ARM alleges that Espresso Supply, Inc., should be subject to the enforcement proceeding because it purchased the Eko Brands company in November of 2015.

Having examined the enforcement complaint and the supporting documents, the Commission has determined to institute a formal enforcement proceeding to determine whether Respondents are in violation of the March 17, 2016 limited exclusion order and cease and desist order issued in the original investigation and what, if any, enforcement measures are appropriate. The following entities are named as parties to the formal enforcement proceeding: (1) complainants Adrian Rivera and Adrian Rivera Maynez Enterprises, Inc.; (2) respondents Eko Brands and Espresso Supply, Inc.; and (3) OUII.

The authority for the Commission’s determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and in section 210.75 of the Commission’s Rules of Practice and Procedure (19 C.F.R. § 210.75).

By order of the Commission.

Issued: June 27, 2016

Lisa R. Barton
Secretary to the Commission

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